

Exhibit B



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September 3, 2024

VIA EMAIL

Timothy R. Pack, Esq.
Aaron D. Lebenta, Esq.
Clyde Snow & Sessions, PC
One Utah Center, Thirteenth Floor
201 South Main Street
Salt Lake City, UT 84111

Re: *Tetsuya Nakamura v. Sunday Group Inc. et al.*, No. 22-cv-01324-MMD-EJY

Dear Tim and Aaron:

We write to follow up on our August 20, 2024 letter, which summarized our July 31, 2024 meet-and-confer discussion and identified issues with your clients' document productions in this matter. We continue to have concerns regarding documents your clients have produced to date, and we follow up on those here.

Missing Document Sources

Email. As discussed on our meet-and-confer call and in our August 20 letter, we have identified the following email domains and addresses for your clients James Pack and Todd Mitsuishi which appear to have been used for responsive communications. Please confirm that you and your clients have preserved, collected, and produced all responsive documents from each of these email accounts.

1. James Pack

1. jpack29@gmail.com
2. jpack29@yahoo.com
3. jpack29@protonmail.com
4. jp@mobby.ai
5. jpack29@outlook.com
6. jp@dagtech.info
7. jpack29@me.com
8. jpack@iorthopedicsinc.com
9. jp@sundaygroupinc.com
10. jp@mobby.ai

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2. Todd Mitsuishi

1. toddmits@gmail.com
2. toddmits@protonmail.com
3. tm@sundaygroupinc.com
4. tm@sundayholdings.com
5. tm@mobby.ai

Slack. We also have identified correspondence referring to Slack workspaces, channels, and messaging apparently containing responsive communications. For example, DEF 006698 refers to the following Slack channels: mobbyoffice.slack.com; mobbiai.slack.com; sundaygrouphq.slack.com; and mobbyai.slack.com. Additional references to Slack communications can be found in DEF 017397, DEF 004458, and DEF 006671. We do not see any Slack communications in documents your clients have produced thus far. Please confirm that you and your clients have preserved and collected all responsive Slack materials and let us know when you plan to produce them.

Text and Messaging Application Communications. We also see indications that text messages and WhatsApp and other messaging applications were used for responsive communications. For example, the April 8, 2024 draft report of Brendan D. Saltaformaggio (the “Saltaformaggio Report”), which you previously disclosed to us, encloses screenshots of SMS messages from Todd Mitsuishi’s smartphone, which Mr. Mitsuishi apparently exchanged with Joe Abel, relevant to claims arising from Dr. Nakamura’s BitClub Network (“BCN”) investment. Neither those messages nor other text messages appear in your clients’ document productions. The Saltaformaggio Report also includes screenshots of Mr. Mitsuishi’s Chatwork conversation logs relevant to the BCN investment. Chatwork communications do not appear in your clients’ document productions. In fact, we see little if any message traffic at all in your clients’ document productions, despite clear indications that text and messaging applications such as WhatsApp were used for responsive communications. Please confirm that your clients have preserved and collected all responsive messaging traffic and let us know when you plan to produce those materials.

Home Drive Materials. Additionally, we have identified in your clients’ productions almost no materials which resided on home drives (e.g., Google Drive), as opposed to communications exchanged by email. It is highly likely that responsive materials exist on home drives. Please confirm that your clients have preserved and collected all those materials and let us know when you plan to produce them.

Medical Records. Finally, you indicated on our meet-and-confer call that your clients’ most recent document productions include certain responsive medical records, but that Mr.

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Mitsubishi is in the process of obtaining additional responsive medical records. We have identified one, and only one, responsive medical document (DEF 023540) in your clients' productions. Please let us know when you plan to produce additional medical records.

Other Deficiencies

We have identified other deficiencies in your clients' document productions as well.

RFP No. 5: Sunday Group Financial Statements and Related Records. Request 5 of our September 8, 2023 requests for production ("RFPs") to each defendant in this matter seeks documents "reflecting or relating to Sunday Group's financial status, including without limitation capitalization tables, financial statements, balance sheets, income statements, profit and loss statements, and cashflow statements, from the date of the SUBSCRIPTION AGREEMENT to the present" Sunday Group's, and your other clients', October 23, 2023 responses and objections ("R&Os") to the RFPs indicated willingness to meet and confer and produce documents responsive to this request notwithstanding boilerplate objections asserted. We met and conferred on November 29, 2023, and in that discussion, you said you take this request to seek "the financial statements that are set out in the Subscription Agreement," you indicated that you "have not seen those yet but hopefully will be getting them soon," and you agreed to produced responsive documents. Yet, your clients' document productions do not appear to include responsive documents. We see no capitalization tables, financial statements, or similar records. Nor do we see Sunday Group bank account statements, which are equally responsive to this request. Please confirm that you and your clients have preserved and collected these materials and let us know when you plan to produce them. We note that, in addition to Sunday Group's discovery obligations, the company's failure to provide Dr. Nakamura financial statements is a breach of the April 19, 2015 Series AA Preferred Stock Subscription Agreement (the "Subscription Agreement"). See Subscription Agreement ¶ 4(a)(ii). It is one of the contractual breaches upon which Dr. Nakamura has asserted claims in this matter.

RFP No. 8: Documents Concerning Issuance or Exchange-Listing of M-Tokens. Request 8 of our RFPs seeks documents "relating to DR. NAKAMURA'S investment in MOBBY, including without limitation DOCUMENTS concerning the issuance or exchange-listing of 'M-Tokens.'" Your clients' second amended answer and counterclaims filed July 12, 2024 alleges that "Sunday Group and its partner in the development of the Mobby Project, DAG Technologies, Inc. ('DAG'), have substantially completed the development of the Mobby Project and are preparing to distribute M-Tokens to the M-Token purchasers." ECF No. 84 ¶ 5. Recent Sunday Group correspondence with investors has stated the same. Your clients' R&Os asserted boilerplate objections to this request but indicated willingness to meet and confer and produce responsive documents. We met and conferred on November 29, 2023, and you agreed to provide

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documents relating to your clients' progress or attempts to issue M-Tokens or to list M-Tokens on an exchange, including internal communications or communications with exchanges. Yet, your clients' document productions do not appear to include any recent internal or external correspondence pertaining to exchange listing, or any documents reflecting the recent purported substantial completion of the Mobby project and imminent issuance of M-Tokens. If activity was recent, you may need to recollect materials from your clients on these issues. Please confirm that you and your clients have preserved and collected these materials and let us know when you plan to produce them.

RFP No. 11: Mobby Project Financial Statements and Related Records. Request 11 of our RFPs seeks documents "reflecting or relating to MOBBY financial status, including without limitation balance sheets, income statements, profit and loss statements, and cashflow statements from January 1, 2017 to the present" Here too, your clients' R&Os objected in boilerplate fashion but indicated willingness to meet and confer and produce responsive documents. We met and conferred on November 29, 2023, and you confirmed your intention to search for and produce responsive documents, saying, "my position is that it should be produced." Yet, your clients' document productions do not appear to include responsive documents. We see no balance sheets, income statements, profit and loss statements, cashflow statements, or bank account records. Please confirm that you and your clients have preserved and collected these materials and let us know when you plan to produce them.

RFP No. 13: Documents Concerning Transfer or Use of Digital Currency Invested in Mobby. Request 13 of our RFPs seeks documents reflecting or relating to the transfer or use of digital currency or other capital Dr. Nakamura invested in the Mobby project. Your clients' R&Os again objected in boilerplate fashion but indicated willingness to meet and confer and produce responsive documents, which the R&Os said you were searching for. We met and conferred on November 29, 2023, and you did not assert any specific objection to producing the requested documents, but rather, indicated intention to do so. Yet, we do not see responsive documents in your clients' productions, such as documents identifying the digital wallets that currently hold the digital currency invested. Please confirm that you and your clients have preserved and collected these documents and let us know when you plan to produce them.

RFP No. 16: Documents Concerning Relationship between SGI Trust and Other Defendants. Request 16 of our RFPs seeks documents relating to the relationship between SGI Trust and any other defendant. The R&Os for SGI Trust and Todd Mitsuishi objected in boilerplate fashion to this request but indicated willingness to meet and confer and produce responsive documents, which the R&Os said your clients were searching for. We met and conferred on November 29, 2023, and discussed Request 16 and the relationship, if any, between SGI Trust and other defendants. You stated a belief that Todd Mitsuishi was trustee of SGI Trust, a private trust. You said you had seen a formation document for SGI Trust which would be produced and that you

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would search for additional responsive documents (e.g., documents reflecting amendments or beneficiary designations). Yet, your clients' productions do not appear to include any documents concerning SGI Trust's formation or its relationship with Mr. Mitsuishi, not even a certificate of trust. Please confirm that you and your clients have preserved and collected these documents and let us know when you plan to produce them.

RFP No. 21: Documents Concerning Transfer or Use of Digital Currency for BCN Investment.

Request 21 of our RFPs seeks documents reflecting or relating to the transfer or use of digital currency or other capital Dr. Nakamura invested pursuant to the Cloud Mining Agreement. The R&Os for SGI Trust and Todd Mitsuishi objected in boilerplate fashion but indicated willingness to meet and confer and produce responsive documents, which the R&Os said your clients were searching for. We met and conferred on November 29, 2023, and you did not assert any specific objection to producing the requested contracts, but rather, indicated intention to do so. Your clients' productions appear to include one document responsive to this request (DEF 002117), which references a spreadsheet that was not produced. Please produce that spreadsheet and any additional responsive documents.

RFP No. 23: Documents Concerning Distributions from BCN Investment. Request 23 of our RFPs seeks documents reflecting or relating to any distributions Dr. Nakamura received pursuant to the Cloud Mining Agreement. The R&Os for SGI Trust and Todd Mitsuishi objected in boilerplate fashion but indicated willingness to meet and confer and produce responsive documents, which the R&Os said your clients were searching for. We met and conferred on November 29, 2023, and you noted your intent to procure and disclose an expert's forensic report of financial transfers made. As explained above, your clients provided the Saltaformaggio Report, which enclosed screenshots of SMS messages and Chatwork conversation logs. Please confirm that you and your clients have preserved, collected, and produced all SMS messages and Chatwork and other messaging application communications responsive to this request, along with any other responsive communications or documents.

RFP No. 33: Contracts with Token Purchasers. Finally, Request 33 of our RFPs seeks "contracts with certain Token Investors" referred to in your clients' pleading, as since amended. Your clients' R&Os again objected in boilerplate fashion but indicated willingness to meet and confer and produce responsive documents. We met and conferred on November 29, 2023, and you did not assert any specific objection to producing the requested contracts, but rather, indicated intention to do so. Yet, we do not see these contracts in your clients' productions. Please confirm that you and your clients have preserved and collected these documents and let us know when you plan to produce them.

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Deposition Discovery

We acknowledge your recent requests for confirmation that Dr. Nakamura will ultimately sit for a deposition in the United States and your August 21, 2024 motion to compel his attendance at the same. ECF No. 88. Our position remains that resolution of the above issues and completion of document discovery must precede any depositions in the case. We believe your motion to compel should be held in abeyance pending resolution of document discovery issues. Please let us know if you agree to hold the motion in abeyance. Barring that, we will oppose the motion on grounds that it is premature.

Sincerely,

FENWICK & WEST LLP

/s/ Casey O'Neill

Casey O'Neill